

REMARKS

Reconsideration of this application is respectfully requested.

A. Status of the Claims

Claims 26, 28, 29, 31-43, and 45-52 are pending. Of those, claims 32, 35-38, 40, 41, 45, and 48-51 are allowed and claims 26, 28, 29, 31, 33, 34, 39, 42, 43, 46, 47, and 52 stand rejected.

Applicant has canceled claims 43 and 47 and amended claims 26, 28, 29, 31, 33, 34, and 46-52. The amendments are fully supported by the application as filed and do not introduce new matter.

B. Rejections Under 35 U.S.C. § 112

At Item 6 of the Office Action, claims 26 and 28 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that “[c]laim 26 is drawn to a purified polynucleotide comprising SEQ ID NO: 30, wherein codon 48 of SEQ ID NO: 30 is GGG or a polynucleotide fully complementary thereto,” but then observed that “[t]he listing of SEQ ID NO: 30 shows that codon 48 is CGG, not GGG.” For that reason the Examiner feels that “it is unclear how a purified polynucleotide comprises both SEQ ID NO: 30 with CGG at codon 48, but is listed as GGG.” In response to the Examiner’s concerns, Applicant has amended claim 26 to recite “A purified polynucleotide comprising SEQ ID NO: 30, wherein codon 48 of SEQ ID NO: 30 has been changed to GGG, or a polynucleotide fully complementary thereto.” Applicant submits that any alleged ambiguity is not present in the amended claim and that the rejection should be withdrawn.

In rejecting claim 28 the Examiner observed that the claim recites "[t]he purified polynucleotide as claimed in claim 26, which comprises SEQ ID NO: 3, 4, or both 3 and 4 or the complement of 3, 4, or both 3 and 4," and that, in the Examiner's view, claim 26 does not indicate any requirement that it contain either SEQ ID NO: 3 or 4. To make the claim even clearer it is amended herein to recite: "The purified polynucleotide as claimed in claim 26, which further comprises SEQ ID NO: 3, SEQ ID NO: 4, or both SEQ ID NOS: 3 and 4, or the complement of SEQ ID NO: 3, SEQ ID NO: 4, or both SEQ ID NOS: 3 and 4." Applicant submits that any alleged ambiguity is not present in the amended claim and that the rejection should be withdrawn.

At Item 7 of the Office Action, claims 29 and 31 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Regarding claim 29, the Examiner stated that "[t]he claim is drawn to a purified polynucleotide comprising SEQ ID NO: 29, wherein codon 58 of SEQ ID NO: 29 is CGA or a polynucleotide fully complementary thereto," but observed that "the listing of SEQ ID NO: 29 shows that codon 58 is GGA, not CGA." On that basis the Examiner concluded that "it is unclear how a purified polynucleotide comprises both SEQ ID NO: 29 with GGA at codon 58, but is listed as CGA." In response to the Examiner's concerns, Applicant has amended claim 29 to recite "A purified polynucleotide comprising SEQ ID NO: 29, wherein codon 58 of SEQ ID NO: 29 has been changed to CGA, or a polynucleotide fully complementary thereto." Applicant submits that any alleged ambiguity is not present in the amended claim and that the rejection should be withdrawn.

In rejecting claim 31, the Examiner observed that the claim recites "[t]he purified polynucleotide as claimed in claim 29, which comprises SEQ ID NO: 1, 2, or both 1 and 2 or the complement of 1, 2, or both 1 and 2," and that, in the Examiner's view, claim 31 does not indicate any requirement that it contain either SEQ ID NO: 1 or 2. To make the claim even clearer it is amended herein to recite: "The purified polynucleotide as claimed In claim 29, which further comprises SEQ ID NO: 1, SEQ ID NO: 2, or both SEQ ID NOS: 1 and 2, or the complement of SEQ ID NO: 1, SEQ ID NO: 2, or both SEQ ID NOS: 1 and 2." Applicant submits that any alleged ambiguity is not present in the amended claim and that the rejection should be withdrawn.

At Item 8 of the Office Action, claims 33 and 34 are rejected under 35 U.S.C. § 112, second paragraph, because the Examiner finds the phrase "stringent hybridization conditions" vague and indefinite, because the Examiner feels that hybridization conditions can vary considerably. In order to address the Examiner's concerns, Applicant has amended the claims to recite hybridization conditions. Applicant submits that the amended claims are definite and request that the rejection be withdrawn.

At Item 9 of the Office Action, claim 43 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. That claim is canceled herein. Thus that rejection is moot and should be withdrawn.

At Item 10 of the Office Action, claim 52 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner stated that "[i]t is unclear what is the actual identity of the claimed 'probe' due to the unclear language of claim 52. For example, is a probe the entire polynucleotide sequence of claim 48 or

merely a portion of the polynucleotide?" Applicant has amended claim 52 to make the claim independent and to recite the properties of the claimed probe in the body of the claim. Applicant submits that the amended claim is clear and that that this rejection should be withdrawn.

At Item 10, claim 43 was also rejected as allegedly indefinite. Claim 43 is canceled herein, so that rejection is moot and should be withdrawn.

C. Rejections Under 35 U.S.C. § 102

At Item 12 of the Office Action, claims 39 and 46 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Du (Accession number AD000020, direct submission, GenBank, 10 December 1996) ("Du"). Applicant respectfully traverses.

Claim 39 recites: "A purified polynucleotide sequence delimited upstream by the polynucleotide sequence of SEQ ID NO: 1 and downstream by the polynucleotide sequence of SEQ ID NO: 2, wherein the purified polynucleotide sequence comprises SEQ ID NO: 29." Thus, the claimed polynucleotide ends at one end with the sequence of SEQ ID NO: 1 and at the other with the sequence of SEQ ID NO: 2. In contrast, the Du sequence referred to by the Examiner extends beyond those endpoints. Nothing in Du suggests the subsequence claimed based on the sequence Du discloses. Accordingly, Du does not anticipate the claimed sequence and the rejection of claim 39 should be withdrawn.

Applicant has deleted the recitation "a purified cDNA comprising SEQ ID NO: 29 (mutT2)" from claim 46, thus rendering the rejection of that claim moot. Accordingly, that rejection should be withdrawn.

At Item 13 of the Office Action, claims 42, 46, and 47 are rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Bourn et al (Accession number U65786, direct submission, GenBank, 1 August 1996) ("Bourn").

Claim 42 recites: "A purified polynucleotide sequence delimited upstream by the polynucleotide sequence of SEQ ID NO: 7 and downstream by the polynucleotide sequence of SEQ ID NO: 8, wherein the purified polynucleotide sequence comprises SEQ ID NO: 28." Thus, the claimed polynucleotide ends at one end with the sequence of SEQ ID NO: 7 and at the other with the sequence of SEQ ID NO: 8. In contrast, the Bourn sequence referred to by the Examiner extends beyond those endpoints. Nothing in Bourn suggests the subsequence claimed based on the sequence Bourn discloses. Accordingly, Bourn does not anticipate the claimed sequence and the rejection of claim 42 should be withdrawn.

Applicant has deleted the recitation "a purified cDNA comprising SEQ ID NO: 28 (ogt)" from claim 46, thus rendering the rejection of that claim moot. Accordingly, that rejection should be withdrawn.

Applicant has canceled claim 47, thus rendering rejection of that claim moot.

At Item 14 of the Office Action, claim 46 is rejected under 35 U.S.C. § 102(b) as being anticipated by Gicquel et al (WO99/09186) ("Gicquel"). Applicant has deleted the recitation "a purified cDNA comprising SEQ ID NO: 32 (Rv3909)" from the claim, thus rendering that rejection moot. Accordingly, the rejection should be withdrawn.

D. Conclusion

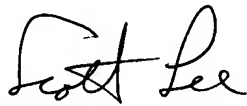
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: March 27, 2007

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